IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO
WRIT PETITION NO : 188 of 2003

Between:

Shivalingu S/o. Babu Rao
Sand Contractor, R/o. Hangarga Village, Kotagiri Mandal,
Nizamabad District.

..... PETITIONER

AND

1 Government of Andhra Pradesh rep. by its Secretary,
Industries & Commerce Department, Secretariat,
Hyderabad.
2 The District Level Committee, rep. by its Chairperson.
Nizamabad, Nizamabad District,
3 The District Collector (Panchayat Wing),
Nizamabad District, Nizamabad.
4 The District Panchayat Officer,
Nizamabad, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the District Collector in his Proceedings No.221/2001-B5 (Pts), dt.6.10.2002, as arbitrary, illegal, unjust and violative of principles of natural justice and contrary to Mines & Minerals (Development and Regulation) Act, 1957 and Andhra Pradesh Minor Mineral Concession Rules, 1966; and consequently call for the records and set aside the same.

Counsel for the Petitioner:MR.K.DURGA PRASAD

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.188 OF 2003

ORDER:

Third respondent herein by proceedings dt.30.9.2002 permitted the petitioner to lift sand in Hangarga Reach in Kotagiri Mandal, Nizamabad District, for a period of sixty-seven days from 1.10.2002 to 6.12.2002. The District Collector by order dt.6.10.2002 directed the Revenue Divisional Officers/Divisional Panchayat Officers/Mandal Revenue Officers/Mandal Parishad Development Officers/Sub-Inspectors of Police and the like in the District to implement the decision to ban sand mining in the District till recharge of the bore wells/water table of the District. The same is assailed in the Writ Petition.

This Court by order dt.13.3.2003 made in W.P.M.P.No.2298 of 2003 directed the respondents to permit the petitioner to quarry sand as per the earlier proceedings dt.30.9.2002. By subsequent order dt.23.4.2004 made in W.P.M.P.No.2298 of 2003 and W.V.M.P.No.3419 of 2003 this Court vacated the interim order, by passing the following order.

In view of the representation made by the petitioner, the Collector (Pts.), Nizamabad by proceedings dated 30.9.2002 accorded permission to the petitioner to lift sand for (67) days i.e., from 1.10.2002 to 6.12.2002. But, by proceedings dated 6.10.2002 the District Development Review Committee in its meeting held on 4.10.2002 has decided to impose ban on sand mining in view of the unprecedented drought in the District. In view of the same, the proceedings dated 6.10.2002 directed the Sarpanchas to ensure that no sand is quarried and transported. Since the said action is taken based upon the recommendations of the Ground Water Department in the benefit of the larger interest of the people, it is not desirable to permit the petitioner, by way of an interim order, to quarry the sand, unless the main writ petition itself is heard and decided in favour of the petitioner. …In view of the same, the interim order earlier granted by this Court on 13.3.2003 is vacated.

Even according to the petitioner he was permitted to quarry sand till 6.12.2002 only. In that view of the matter, the cause of action does not survive and the Writ Petition is dismissed as infructuous. However, it shall be open to petitioner to apply for appropriate permission as and when the ban imposed by the District Collector on sand quarrying is lifted.

The Writ Petition is accordingly dismissed as infructuous. No costs.

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(V.V.S.RAO, J)

8.9.2004
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To

1 The Secretary ,
Industries & Commerce Department,
Government of Andhra Pradesh, Secretariat,
Hyderabad.
2 The Chair Person, District Level Committee,
Nizamabad, Nizamabad District,
3 The District Collector (Panchayat Wing),
Nizamabad District, Nizamabad.
4 The District Panchayat Officer,
Nizamabad, Nizamabad District.
5 2CCs to the Advocate General, High Court Bldgs., Hyderabad(OUT)
6 2CD copies

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